

Glen Hoff gave to me Dan Inspecter Aug 5 2004

Dear Mr. Lowry

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WATER RIGHTS
SALT LAKE

We received your letter regarding Bill Nielson and we are very pleased to respond to your questions. Your questions involve the Randolph Irrigation Company, Little Creek Reservoir Company, and the Bear River Compact.

In regards to question number one, here are a few of the facts as we understand them. There is no guaranteed contracted flow. The flow is based on the available water that the system produces from year to year. The adjudication right shows what rights can be used if that water is actually available. Below are listed some of the irrigation rights that have been adjudicated with some pertinent information. These rights deal directly with the Little Creek reservoir and Randolph Irrigation Co. rights and stock water rights. Also, it should be noted that Utah Power and light company claims all additional water that has not been adjudicated to the Randolph Irrigation Company, Little Creek Reservoir Co. and stock watering rights, and is controlled by the Bear River Compact. These irrigation Rights are listed in the book, Revised Determination of Water Rights in the Bear River drainage area, Rich County division, code area 23, dated 1953.

Page 300- claim number 811 New Canyon Creek Diligence.

Page 302- Claim Number 813 Old Canyon Diligence. This system does not have a constant flow of water, and is dry most years.

Page 302 and 303- Claim Number 12 Little Creek Reservoir storage and stock watering rights.

Page 304- Claim Number 456 and 457 Little Creek Diligence.

Page 307- Claim Number 810 and 814 on next page, Pole Canyon Diligence.

The priority date on these systems is 1870, with a flow of ten C.F.S. the points of diversion are listed along with the period of use which is May first to October thirty first for irrigation, with the stipulation in the front of said book, page three article ten which states that we have the right to apply for irrigation water in April and November, by making application with the state engineers office.

In the back of said book's index, page eleven, it shows all of Randolph's Irrigation Companies rights and claims with the priority date of 1870. The stock watering rights are also listed with 1870 priority dates and dates of use January first to December thirty first.

There are a total of 4,000 shares in the Randolph Irrigation Company. Mr. Nielson owns just seventy five shares, that he takes in a pipeline which he installed and uses this for sprinkler irrigation and some flow down the New Canyon Channel. He made an agreement with the Randolph Irrigation Company, that if they would let him use this New Canyon Creek flow through the irrigation season, May first to October thirty first that would be his share of irrigation water for the season. This action is noted in our minutes. There is now no return from the New Canyon Creek System. He has constructed a reservoir which catches any water not used for sprinkling.

From the year 1920 to the year 2004 has been 84 years. There has been a lot of sediment that has settled in the reservoir and the storage capacity has been greatly reduced, by about 100 acre feet. Also there is evaporation and seepage resulting to more loss of storage in the reservoir. The way the water has measured out there is about 400 acre feet to be divided among the stock holders in the Little Creek Reservoir. There are a total of 2006 shares in the reservoir company. Mr. Nielson owns 820 of these shares. This water is delivered on a "as call basis". Most stock holders usually call for two C.F.S., but this can be adjusted up or down. However when a stock holder has used up his share of reservoir water for the season, there is no more reservoir water available that year.

Regarding question number two, **the measuring points have not been moved**. There are three measuring points, one just above Mr. Nielson's farm, one at the bottom of Mr. Nielson's farm, which is immediately

above the Little Creek Reservoir and another is located just below the reservoir. These three Parshell flumes are regularly measured by the irrigation company's water master. These three Parshell flumes are there, and have been there since May 1926 and will of course remain there as directed by the State Water Engineer. These three Parshell flumes insure that as accurate as possible measurements can be made and the water divided fairly. The Parshell flume located just above the reservoir is measured by the water master so he can know the proper amount of creek flow that has to be diverted through the reservoir.

Also here are some important points to consider.

1. Mr. Nielson has greatly expanded his farming area by plowing up many acres of sage brush north of his original farm ground. This stretches his water very thin to cover the old acreage and these new expanded acres. These acres are irrigated by sprinkler systems and with water that was adjudicated for acreage along Little Creek. **There is of course no return flow from these sprinkler systems.**
2. Mr. Nielson has installed two reservoirs above the Little Creek reservoir and stores water before it can reach the little creek reservoir. This of course is fine if he is not storing water which is already adjudicated to Little Creek Reservoir or stock watering, or other share holders, covered by the Bear River Compact.
3. When Mr. Nielson first moved to Randolph and bought the farm most of the irrigation was flood irrigation on both sides of Little Creek. There was some what of a gentlemen's agreement that as long as they could keep the flow correct, which was measured on the Parshell flume above the reservoir, they would allow them to divert more water than their irrigation shares would call for. Now however most of the irrigation is by sprinklers, and there is no return flow. Therefore there can be no credit given for something which does not exist. On exceptional water years, the creeks flow more than regular and the summer rains reduce the need for irrigation water. On these years, Mr. Nielson has taken more water than his shares allow and used this water on his expanded acreage. He may have begun to think of this situation as a "right" which it is not.
4. In the adjudication of the water rights for the Little Creek area, the Randolph Irrigation Company and the Little Creek reservoir company would like to see what water rights Mr. Nielson has to start his irrigation before May first and take all the water in the system, and again in the fall some time in September take all the water. This is being done every year above the Little Creek Reservoir. Is this being done legally or illegally? Could you please show us where this is proper, and if there is adjudication for this use.
5. Our irrigation system is about the only one in this area that is not controlled by a river commissioner who is salaried all year to control the water in the systems. The state engineer keeps suggesting that we need to hire a river commissioner all year. We can guarantee that our assessment won't be two dollars a share, but more likely eight to ten dollars a share for ~~sock~~ stock holders in the reservoir.
6. We sympathize with Mr. Nielson that in the last five to seven years he has had less water to work with. However it must be noted that all irrigators in this area have been in the same situation. The drought has progressively gotten worse from year to year, and last year most irrigators were only able to water 25 to 30% of their land. Total crop failures were the result on the other 70 to 75% of their farms. It should also be noted that many of these irrigators have additional sources of water, Big Creek, Woodruff Narrows, and Wells. Even with these additional water sources the impact of this drought has been severe. Water sources have been greatly diminished and the only thing we can do is work together to divide the available water.
7. It should also be noted that Mr. Nielson has changed his ranching operation, where as he started with a smaller herd of cattle which were grazed on the BLM and Forest Service ground. He had the opportunity to raise a lot of hay on his farm. He has since sold that range right, and now grazes hundreds of cattle on that same hay ground. Resulting in no hay crop.
8. Another important point to consider is that Mr. Nielson's farm is all located above the Little Creek Reservoir. The Randolph Irrigation Company, as an accommodation to Mr. Nielson, allows him to exchange the use of creek water for reservoir water before it even reaches the reservoir. If this accommodation were not made Mr. Nielson would have to pump all water from the Little Creek Reservoir back up to his farm. This is evidence of the Little Creek Reservoir Co. and Randolph Irrigation Company trying hard to work with and accommodate Mr. Nielson.

9. The Randolph Irrigation Company and Little Creek Reservoir company along with the Bear river Compact all feel that our priority dates of 1870 and 1920 will have priority over Mr. Nielson's claims.
10. In summary, these thoughts are the result of a meeting of the stockholders in the Little Creek Reservoir Co. held on January 10, 2004. We want nothing more than to have water fairly divided and want to work together to bring about that result. Commonly in the past Mr. Nielson has not sought to work with the irrigation companies but instead, has acted independently and taken whatever water he wanted. We feel that a more fair situation will result when all stockholders submit to the direction of the companies and their appointed water master. We hope this letter is helpful and we anxiously await your reply on the points of this letter.

Sincerely,